IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

And

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9009 of 1996

Between:

1 Sri.Mohd.Abdul Hussain, S/o. Mohd.Abdul Rahman,
R/o H.No.395/S.R.T., Yokuntpuram Colony,
Hyderabad.
2 B.Prabhkar Rao, S/o. Govind Rao,
R/o H.No.10-3-291/A/2, Vijayanagar Colony,
Hyderabad.
3 S.Surya Prakash, S/o. S.Pullaiah.
R/o H.No.23-4-439, Sultanshahi, Hyderabad.
4 S.Satyanarayana, S/o. S.Pullaiah,
R/o H.No.16-11-16/1/A, Saleemnagar Colony,
Hyderabad.
5 B.Ravinder, S/o. Yadagiri,
R/o H.No.10-3-66/12, Humayun Nagar, Hyderabad.
6 B.Manoj Kumar, S/o. B.Yadagiri,
R/o H.No.10-3-66/12, Humanyun Nagar,
Hyderabad.
7 K.Ashok Rao, S/o. Narayana Rao,
R/o H.No.1-79/A, Motinagar, Erragadda, Hyderabad.
8 M/s. V.C.R. Association, Prop. G.Venkateshwara Rao,
R/o H.No.3-6-781/3/A, Tilaknagar, Hyderabad.
9 G.Ramesh, S/o. G.Sataiah,
R/o H.No.2-2-1076/5/D/1, Tilaknagar, Hyderabad.
10 M/s. Kalyan Constructions, Prop. G.Ramesh,
R/o.No.2-2-1076/6/D/1, Tilaknagar, Hyderabad.
11 M/s. Sri Sai Constructions, Prop. G.Anand,

R/o H.No.2-2-1076/5/D/1, Tilaknagar, Hyderabad.

12 M/s. Roshan's, Prop.Ahmed Mohd.,
R/o H.No.5-9-1032/B, Hyderguda, Hyderabad.

13 Saleem Ahmed, S/o. Ahmed Mohd,
R/o H.No.5-9-1032/B, Hyderguda, Hyderabad.

14 Ahmed Mohd, S/o. Hazi Mohd Suleman,
R/o H.No.5-9-1032/B, Hyderguda, Hyderabd.

15 Mohd.Ghouse, S/o. Mohd Afzal,
R/o H.No.22-1-902, Sultanpura, Hyderabad.

..... PETITIONERS

AND

1 Government of Andhra Pradesh, Rep. by its Principal Secretary,
Revenue Department, (CT), Secretariat, Hyderabad.
2 Commissioner Commercial Taxes Department, Nampally,
Hyderabad.
3 Engineer in Chief, Irrigation and GAD Department,
Errumunzil, Hyderabad.
4 Engineer in Chief, Road and Buildings Department,
Errumanzil, Hyderabad.
5 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad.
6 Director of General Works Department, Nirman Bhavan,
Sultanbazar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ more particularly in the nature of Writ of Mandamus Act 22 of 1995 and Rule 6(3)(i) of APGST Rules as Ultra Vires articles 14, 19(1) (F) and 21 of the Constitution of India (ii) direct the state of A.P. to levy and collect sales Tax respect of material used in works contract only at the rates applicable under various schedules in terms of Section 5(1) of the APGST Act and not under Section 5F of APGST Act., (iii) interdict the respondents from deducting tax at source in pursuance of section 5H or in alternative direct the said respondents to deduct tax at source at specified rates applicable under various schedules only in respect of materials or goods used in execution of works contract and pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.B.NARAYANA REDDY

Counsel for the Respondents: SPL GP FOR TAXES

The Court made the following:

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ORAL ORDER: (per MHSA.J.)

When the matter appeared before us yesterday, the learned counsel for the petitioners was not present.

2. On behalf of the respondents-Department, the learned Special Government Pleader for Taxes submitted that the matter is covered by the Judgment of this Court. Accordingly the matter was directed to be listed this day for orders being a covered matter.

3. The learned Special Government Pleader appearing for respondents-Department submitted that the matter is squarely covered by the Judgment of this Court in GANNON DUNKERLY AND OTHERS vs. STATE OF ANDHRA PRADESH[1], wherein the validity of the Sections impugned in the instant Writ Petition was also the subject matter of the consideration.

4. Accordingly the instant Writ Petition is disposed of in terms of the directions contained in the said Judgment of the Division Bench, viz., GANNON DUNKERLY case (supra 1). No costs.

(M.H.S.ANSARI, J.)

22nd December, 2004.

(S.ANANDA REDDY, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Principal Secretary, Government of Andhra Pradesh,
Revenue Department, (CT), Secretariat, Hyderabad.
2 Commissioner Commercial Taxes Department, Nampally,
Hyderabad.
3 Engineer in Chief, Irrigation and GAD Department,
Errumunzil, Hyderabad.
4 Engineer in Chief, Road and Buildings Department,
Errumanzil, Hyderabad.
5 The Commissioner, Municipal Corporation of Hyderabad,
Tank Bund, Hyderabad.
6 Director of General Works Department, Nirman Bhavan,
Sultanbazar, Hyderabad.

7 2CCs to Special G.P. for Taxes, High Court of A.P. (OUT)

8 2CD copies.